

ROKOSCH

GRANDSTAFF *CG*

THOMPSON *AT*

CHILCOTT

DRISCOLL *KD*

PLETTENBERG (Clerk & Recorder)

Date.....September 11, 2007

Members Present.....Commissioner Jim Rokosch,  
Commissioner Carlotta Grandstaff, Commissioner Alan Thompson, Commissioner Greg  
Chilcott and Commissioner Kathleen Driscoll

Minutes: Beth Farwell

The Board met to discuss and approve a Memorandum of Understanding (MOU) in case of an aircraft incident with the Airport, Sheriff's Office and Office of Emergency Services (OES). Present were Airport Manager Page Gough and Airport Board Chairman Dave Hedditch.

**Commissioner Chilcott made a motion to approve the MOU between the Airport, Sheriff's Office and OES for aircraft incident. Commissioner Driscoll seconded the motion, all voted 'aye'.**

The Board met for a public hearing regarding Saddle Hills Major Subdivision and two variance requests and a petition to realign Upper Woodchuck Road. Present were Planning Director Karen Hughes, Planner Renee Van Hoven, Road Supervisor David Ohnstad, and Surveyor George Marshall.

Commissioner Grandstaff called the public hearing to order. She called for any conflicts of interest, hearing none.

Commissioner Grandstaff requested the viewer's report from Surveyor George Marshall.

George Marshall presented the viewer's report on the petition to realign Upper Woodchuck Road. On August 29<sup>th</sup>, George, Commissioner Rokosch and Road Supervisor David Ohnstad attended an onsite visit to Upper Woodchuck Road. There are four affected landowners who have all signed the petition requesting this realignment. The portion of the Road proposed for alteration as shown on draft Road & Drainage Plans (2006) for the proposed Saddle Hills Subdivision appears consistent with the relocation of a portion of a common boundary shown on Certificates of Surveys No. 569927 & No.

572539 as a prelude to said subdivision. Commissioner Grandstaff asked if the main issue is to bring down the slope to 10%. George replied there is one portion of the road which is fairly steep and as you go up the road there is a 45 degree angle uphill. They are proposing to bring the slope down.

Commissioner Grandstaff asked if there were any questions for Mr. Marshall.

Commissioner Thompson asked if there was unanimous consent among those that were involved with the viewers report. George replied yes, that is correct. Their recommendation is to approve of the petition.

Commissioner Chilcott stated in the interest of public safety, the realignment would enhance site distances and make it easier for emergency response vehicles to access the area. He is in 100% concurrence with the landowners.

Commissioner Grandstaff opened the floor for public comment.

Jason Rice of Territorial Landworks stated they are in compliance with AASHTO and with county standards but they had to do a design exception that was approved by the County Road and Bridge Department for a 10.8% grade. He would like to clarify they are proposing to bring the road from 12% for about 400 feet down to 10.8% which requires a significant amount of fill.

Sashia Humes stated she resides in Florence and is in favor of the development.

Alan Bradley stated he represents JWT, who owns the land to the west and south of the proposed subdivision. He stated he has no objection to the subdivision or the requested variances.

Commissioner Grandstaff closed public comment.

**Commissioner Chilcott made a motion to approve the petition to alter a portion of Upper Woodchuck Road and accept the viewers report as presented.** Renee stated the agenda is formatted so the Commissioners may want to wait before making a motion on the realignment, until after a decision on the subdivision variances is made, as the proposal is directly tied to the variances. If the developer's proposal is approved, that would be the best time to approve the petition to realign the road. Brief discussion followed regarding tabling the motion until after the public hearing for Saddle Hills Major Subdivision and two variance requests.

**Commissioner Chilcott withdrew his motion.**

**Commissioner Chilcott made a motion to accept the viewers report on the petition to alter a portion of Upper Woodchuck Road. Commissioner Thompson seconded the motion, all voted 'aye'.**

Commissioner Rokosch called for a brief recess.

Commissioner Rokosch opened the public hearing for Saddle Hills Major Subdivision and two variance requests. He requested the Planning Staff Report to be read. Renee presented the report as follows:

**SADDLE HILLS  
TWENTY-LOT MAJOR SUBDIVISION AND TWO VARIANCE REQUESTS  
STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS (BCC)**

**CASE PLANNER:** Renee Van Hoven

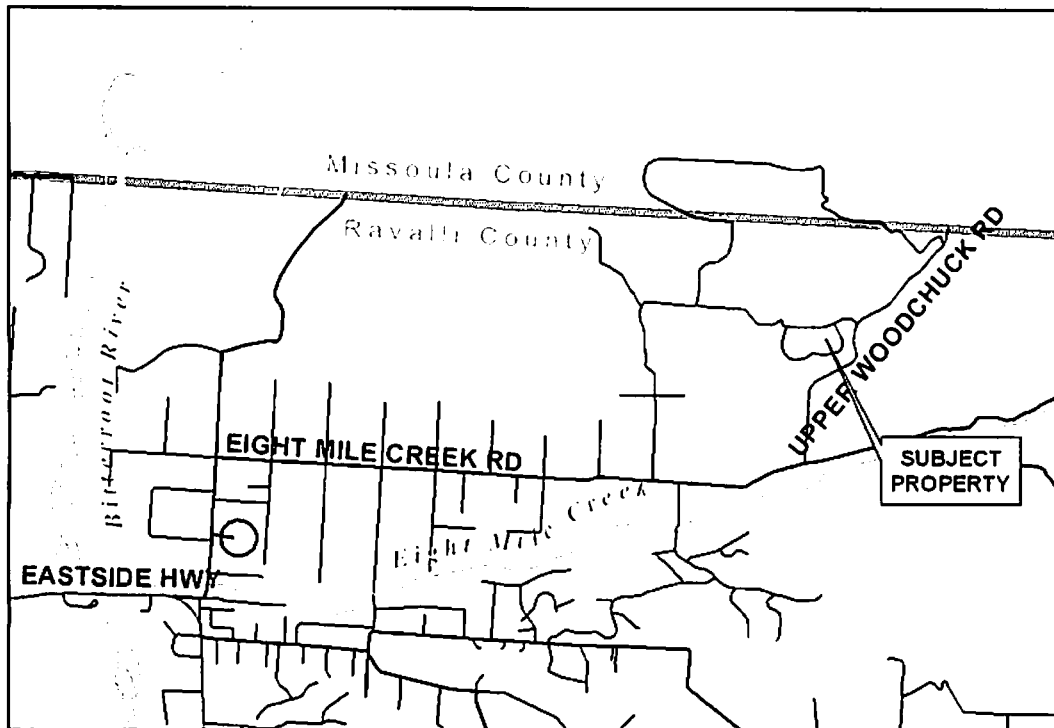
**REVIEWED/  
APPROVED BY:** Karen Hughes

**PUBLIC HEARINGS/  
MEETINGS:** Planning Board Public Meeting: 3:00 p.m. August 15, 2007  
BCC Public Hearing: 9:00 a.m. September 11, 2007  
Deadline for BCC action  
(applicant received extension): September 27, 2007

**SUBDIVIDER:** Aldo and Niki Sardot  
PO Box 1074  
Florence, MT 59833-1074

**REPRESENTATIVES:** Applebury Survey and Territorial-Landworks, Inc.

**LOCATION OF REQUEST:** The property is located east of Florence off of  
Upper Woodchuck Road (*See Map 1*)



**Map 1: Location Map**  
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION  
OF PROPERTY:**

A portion of the W ½ Section 3, and of the SE ¼ Section 4, T10N, R19W, P.M.M., Ravalli County, Montana.

**APPLICATION  
INFORMATION:**

The subdivision application was determined complete on May 30, 2007. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-18 of the staff report.

**LEGAL NOTIFICATION:**

A legal advertisement was published in the *Ravalli Republic* on Monday, August 6, 2007. Notice of the project was posted on the property and adjacent property owners were notified by certified mail postmarked August 3, 2007. One public comment is included as Exhibit B.

**APPLICABLE  
REGULATIONS:**

The proposal is being reviewed under the Ravalli County Subdivision Regulations (RCSR), as amended May 24, 2007.

**DEVELOPMENT  
PATTERN:**

Subject property	Vacant Rural
North	Vacant Rural
South	Agricultural
East	Vacant Rural
West	Vacant Rural

**INTRODUCTION**

The Saddle Hills major subdivision is a 20-lot subdivision of 117.57 acres located approximately 6.00 miles east of the community of Florence. There are several areas of steep slopes (greater than 25%) associated with natural drainages on the subject property. Montana Fish, Wildlife, and Parks (FWP) has identified the property as being within elk and mule deer winter range and has recommended that Lot 20 be restricted from future subdivision.

Concurrent with the subdivision, the subdivider is requesting two variances, both from Section 5-4-5(d) of the RCSR, to allow the subdivider relief from paying the pro-rata share of the cost to improve the portions of Eight Mile Creek Road (Variance Request 1) and Upper Woodchuck Road (Variance Request 2) leading to the subdivision. As mitigation, the applicants propose to chip-seal and realign the portion of Upper Woodchuck Road that serves the subdivision. Because Upper Woodchuck Road is a County road, a petition, viewer's report, public hearing, and BCC approval are required for the realignment. The petition was submitted by the applicants on July 13, 2007, viewers will visit Upper Woodchuck Road on August 29, 2007, and the public hearing will be held concurrent with the public hearing for the subdivision and variances.

*Staff is recommending denial of Variance Request 1 and conditional approval of Variance Request 2.*

**RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS**

**SEPTEMBER 11, 2007**

**SADDLE HILLS SUBDIVISION**

**TWENTY-LOT MAJOR SUBDIVISION AND TWO VARIANCE REQUESTS**

**RECOMMENDED MOTIONS**

1. That the variance request from Section 5-4-5(d) of the RCSR, to allow the subdivider to chip-seal a portion of Upper Woodchuck Road in lieu of paying the pro-rata share of the cost to improve Eight Mile Creek Road, be **denied**, based on the findings of fact and conclusions of law in the staff report.
2. That the variance request from Section 5-4-5(d) of the RCSR, to allow the subdivider to chip-seal a portion of Upper Woodchuck Road in lieu of paying the pro-rata share on the cost to improve Upper Woodchuck Road, be

**approved**, based on the findings of fact and conclusions of law in the staff report, and subject to the conditions in the staff report.

3. That the Saddle Hills Major Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report, and subject to the conditions in the staff report. *(Staff Note: The BCC should determine whether the applicants' land proposal or cash-in-lieu will be accepted to meet the parkland dedication requirement as part of the motion. Also, contributions to the School District and Sheriff's Office need to be negotiated with the applicants.)*

### **RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION AND VARIANCE REQUEST 2**

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

***Notification of Proximity to Agricultural Operations.*** This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

***Notification of Irrigation Facilities and Easements.*** Within this subdivision there is an irrigation easement, as shown on the final plat. All downstream water-right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. The filed subdivision plat shows the irrigation easement on the property. The Eight Mile Creek Company must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. The placement of structures or the planting of vegetation other than grass within the ditch easement is prohibited. Those acting with the approval of the Eight Mile Creek Company have the right to use the easements to maintain the ditches. Please contact the Eight Mile Creek Company, 620 Eight Mile Creek Road, Florence, MT 59833, for more information. *(Effects on Agricultural Water User Facilities)*

***Notification of Water Rights.*** Residents within this subdivision do not currently have the right to take irrigation water out of the irrigation ditch within this subdivision. Taking water without a water right for any purpose is illegal. Residents should consult with the Montana Department of Natural Resources for questions on water rights. *(Effects of Agricultural Water User Facilities)*

***Limitation of Access onto a Public Road.*** A "no-ingress/egress" restriction exists along the Upper Woodchuck Road frontage of this subdivision, excepting the approved approach for the internal subdivision road. All lots within this subdivision must use this approved approach. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. *(Effects on Local Services and Public Health and Safety)*

**Notification of Road Maintenance Agreement.** The internal subdivision roads are not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A road maintenance agreement for these roads was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. *(Effects on Local Services)*

**Notification of High Voltage Transmission Line and Utility Easement.** There is a high voltage transmission line within an 80-foot wide utility easement operated by NorthWestern Energy that traverses Lot 20 of the subdivision. No structure shall be allowed to encroach into or set upon this easement. The utility easement shall remain unobstructed and accessible at all times. *(Effects on Local Services)*

**Notification of No-Build/Alteration Zones.** Within this subdivision there are no-build/alteration zones, as shown on the plat, to restrict building in areas with steep slopes and protect natural drainage features. No new structure, with the exception of fences, may be constructed in these areas. No new utilities may be constructed in these areas. No fill may be placed in these areas and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through these areas are not permitted. *(Effects on Natural Environment and Public Health & Safety)*

**Notification of "Very Limited" Soils.** Within this subdivision there are areas of the property identified by the Natural Resources Conservation Service (NRCS) as potentially having soils rated as "very limited" for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat. Descriptions of the soils in question are included as an exhibit to this document. *[The subdivider shall include the exhibits as attachments with the final plat submittal.] (Effects on Public Health & Safety)*

2. Protective covenants for this subdivision shall be filed with the final plat that include the following provisions:

**Control of Noxious Weeds.** A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. *(Effects on Agriculture and Natural Environment)*

**Irrigation Restrictions.** Each lot is limited to 1/4 acre of well-supplied irrigation property (e.g. lawn, garden, shrubbery, and trees), and the irrigated area shall be limited to the area immediately surrounding the home site. Property owners shall conserve well-supplied water and not unduly waste water through evaporation, runoff or infiltrations (e.g. decorative pond, stream

or fountain, etc.). This groundwater use restriction does not restrict short duration and limited recreational uses such as non-leaking swimming pools. This irrigation acreage limitation set forth in this section of the covenants shall not be removed or amended without approval of the Montana Department of Environmental Quality through a revision of the Certificate of Subdivision Approval. *(Effects on Natural Environment)*

**Separation of Wells.** In accordance with the DEQ Certificate of Subdivision Approval, new or relocated wells shall be located 200 feet from any existing wells. *(Effects on Natural Environment)*

**Required Posting of County-Issued Addresses for Lots within this Subdivision.** The Florence Rural Fire District has adopted the Uniform Fire Code, which requires lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. *(Effects on Local Services and Public Health & Safety)*

**Access Requirements for Lots within this Subdivision.** The Florence Rural Fire District has adopted the Uniform Fire Code. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Florence Rural Fire District for further information. *(Effects on Local Services and Public Health & Safety)*

**Residential Sprinklers.** The Florence Rural Fire District recommends that future lot owners install sprinklers inside residences because the subdivision is several miles from the fire station. *(Effects on Local Services and Public Health and Safety)*

**Waiver of Protest to Creation of RSID/SID.** Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*

**Wood Stoves.** The County recommends that home owners install EPA-certified wood stoves to reduce air pollution. More information is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Credit for the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. *(Effects on Natural Environment)*



**Lighting for New Construction.** To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit [www.darksky.org](http://www.darksky.org). (*Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety*)

**Development Restrictions on Lot 20.** Construction or placement of buildings on Lot 20 shall be limited to the area within the "building envelope," as designated on the final plat. No structures of any kind shall be permitted outside of the building envelope. The following uses, if not otherwise restricted, shall be permitted outside of the building envelope: construction and maintenance of access ways; construction and maintenance of utilities; and those uses permitted within the electrical utility easement, as recorded in Book 158, Page 754 Deeds. In order to allow the free passage of big-game wildlife into and out of the lot, any fencing must be wildlife friendly and meet the standards as stated in the living with wildlife covenants. Pending future zoning, Lot 20 shall not be further subdivided. All of the preceding restrictions in this paragraph shall remain in effect until and unless Lot 20 is included in a permanent zoning district, governed by permanent zoning regulations, as adopted by Ravalli County pursuant to 76-2-1 or 76-2-2, MCA (not to include interim zoning per 76-2-206, MCA). This shall not be construed so as to obligate Ravalli County to adopt permanent zoning for this area, nor to adopt zoning regulations that allow for the further subdivision or development of Lot 20. (*Effects on Wildlife and Wildlife Habitat*)

**Riparian and Drainage Area Covenants.** Healthy, naturally functioning riparian areas benefit fish and wildlife, as well as agriculture and recreation. The goal of the no-build/alteration zones along the riparian area associated with Woodchuck Creek and the two natural drainages traversing the subdivision is to help preserve the water quality and functionality of these drainage areas, protect and enhance potential riparian areas, and protect property from eroding banks and possible flooding. (*Effects on Natural Environment and Wildlife and Wildlife Habitat*)

No-build/alteration zones encompass both the natural drainages traversing the property and the riparian area associated with Woodchuck Creek. The following covenants apply to the no-build/alteration zones:

- a. No new building or alteration is allowed in the zone.

- b. Only non-motorized access is allowed (except for certain maintenance needs such as weed spraying).
- c. Do not cut or remove live or dead vegetation, particularly shrubs and trees from the no-build/alteration zone. Exception: proper use of chemicals or other methods of control (other than mowing) for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
- d. Do not plant lawns or crops in the buffer zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.
- e. If planting is planned for this area, the goal should be to re-establish native plant species appropriate to the site.
- f. In summary, allow the natural drainage areas to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
- g. These riparian and drainage area covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

***Living with Wildlife.*** Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, elk, black bear, mountain lion, coyote, fox, skunk, and raccoon. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at [www.fwp.mt.gov](http://www.fwp.mt.gov). (*Effects on Agriculture and Wildlife & Wildlife Habitat*)

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife, particularly from deer** feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens and fruit trees** can attract wildlife such as deer and bears. Keep produce and fruit picked and off the ground, because rotting vegetable material can attract bears and skunks. To help keep wildlife

such as deer out of gardens, fences should be 8 feet or taller. Netting over gardens can help deter birds from eating berries.

- c. **Garbage** must be stored in secure bear-resistant containers or indoors to avoid attracting wildlife such as bears and raccoons. If stored indoors, garbage cans may not be set out until the morning of garbage pickup, and must be taken back indoors that day after garbage pickup.
- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to provide supplemental feed attractants if it results in a "concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. **Birdseed** is an attractant to bears. If used, bird feeders must: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of their owner(s), and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- g. **Pet food and/or livestock feed** must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets [and/or livestock]** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- h. **Barbecue grills** should be stored indoors. Permanent, outdoor barbecues grills are discouraged in this subdivision. Keep all portions of the barbecues clean. Food spills and smells on the grill, lid, etc. can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire)

in order to facilitate wildlife movement and help avoid animals such as deer and/or elk becoming entangled in the fence or injuring themselves when trying to jump the fence.

- j. **Compost piles** can attract skunks and bears and should be avoided in this subdivision. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps. (Kitchen scraps could be composted indoors in a worm box with minimum odor and the finished compost can later be added to garden soil.)
- k. **Apiaries (bee hives)** could attract bears in this area and should be avoided. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- l. These "living with wildlife" covenants cannot be altered or eliminated without consent of the governing body (Board of County Commissioners).

**Radon Exposure.** The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. *(Effects on Public Health & Safety)*

**Amendment.** Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

- 3. All existing and proposed irrigation easements shall be shown on the final plat as they were shown on the preliminary plat. *(Effects on Agricultural Water User Facilities)*
- 4. In conjunction with the recorded irrigation restrictions, the final plat shall show a notification stating the following: "Well-supplied irrigation shall be limited to a maximum area of 1/4 acre for each lot within the subdivision, and the irrigated area shall be limited to the area immediately surrounding the home site. Furthermore, residents within this subdivision do not currently have the right to take irrigation water out of the irrigation ditch within this subdivision. Taking water without a water right for any purpose is illegal. Residents should consult with the Montana Department of Natural Resources for questions regarding surface water rights." *(Effects on Agricultural Water User Facilities)*

5. Prior to final plat approval, the subdividers shall provide a letter from the Florence Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the applicants shall contribute \$500 per lot and/or a land donation, as approved by the Fire District, and provide a letter or receipt from the Florence Rural Fire District that the contribution has been made prior to the final plat approval. *(Effects on Local Services and Public Health & Safety)*
6. The subdivider shall submit a letter or receipt from the Florence-Carlton School District stating that they have received an (amount)-per-lot contribution prior to final plat approval. *(Effects on Local Services)*
7. The subdivider shall submit an (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval. *(Effects on Local Services)*
8. The final plat shall show a no-ingress/egress zone along the Upper Woodchuck Road frontage of the subdivision, excepting the approach for the internal road, as approved by the Ravalli County Road and Bridge Department. *(Effects on Local Services and Public Health & Safety)*
9. The internal subdivision roads shall be labeled as "public road and utility easements" on the final plat. *(Effects on Local Services)*
10. Stop signs and road name signs shall be installed at the intersections of Upper Woodchuck Road with Eight Mile Creek Road and High Withers Trail, and the two intersections of High Withers Trail with Hackamore Trail. *(Effects on Local Services and Public Health and Safety)*
11. The road maintenance agreement for the internal subdivision roads shall state that other parcels that may have beneficial use of the internal subdivision roads shall be allowed to join as members of the agreement without the consent of the current members. *(Effects on Local Services)*
12. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*

13. The applicants shall provide evidence that plans for a Collection Box Unit (CBU), including location of the box and specifications, have been approved by the local post office prior to final plat approval. *(Effects on Local Services)*
14. A no-build/alteration zone shall be shown on the steep slopes associated with Woodchuck Creek on the final plat, as shown on the preliminary plat. No-build/alteration zones shall be shown on the slopes greater than 25% that are associated with the natural drainages traversing the property (one drainage traverses Lots 1 through 4 and the other drainage traverses north/south through the center of the property) on the final plat. Public road and utility easements, as shown on the preliminary plat, shall not be included in the no-build/alteration zones. *(Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety)*
15. A building envelope, not to exceed one acre in total land area, shall be shown within the southwestern portion of Lot 20 on the final plat. The building envelope shall be located wholly below an elevation of 3,880 feet above sea level, as shown on the preliminary plat. A note shall be placed on the final plat, stating that no buildings may be placed or constructed within Lot 20 outside of the platted building envelope, and that Lot 20 shall not be further subdivided, except in accordance with the covenants filed with the final plat. *(Effects on Wildlife and Wildlife Habitat)*
16. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Effects on Local Services and Public Health & Safety)*
17. The applicants shall improve Upper Woodchuck Road, as proposed in the road plans that received preliminary approval from the Ravalli County Road and Bridge Department, prior to final plat approval. *(Effects on Local Services, Natural Environment, and Variance 2)*
18. The applicant shall identify locations for appropriate traffic control signs on Upper Woodchuck Road to mitigate any potential public health and safety concerns and submit plans with the final design submittal to the Ravalli County Road and Bridge Department. *(Effects on Public Health and Safety and Variance 2).*

## **SUBDIVISION REPORT**

### **COMPLIANCE WITH PREREQUISITES TO APPROVAL**

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it is established by credible evidence that the proposed subdivision meets the following requirements:

**A. Provides easements for the location and installation of any planned utilities.**

Findings of Fact

1. The preliminary plat indicates that existing utility easements are located along Upper Woodchuck Road. Utility easements are proposed along the internal subdivision roads.
2. Section 3-4-4(a)(ii) of the RCSR requires that the existing and proposed utility easements are shown on the final plat.

Conclusion of Law

The proposed subdivision application provides for utility easements.

**B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.**

Findings of Fact

1. The subject property is accessed by Eight Mile Creek Road, Upper Woodchuck Road, and the internal road network (High Withers Trail and Hackamore Trail).
2. Both Eight Mile Creek Road and Upper Woodchuck Road are listed as County-maintained roads in Exhibit A of the RCSR.
3. The applicant is proposing 60-foot wide public road and utility easements for High Withers Trail and Hackamore Trail, which are proposed to serve the lots within the subdivision. Section 3-4-4(a)(ii) of the RCSR requires that public road and utility easements are shown on the final plat.
4. Approximately 30 feet of the easement for High Withers Trail, a proposed road accessing the subdivision, traverses through the adjoining property to the north (Tract A of COS 509504-F owned by Alan Bradley – see preliminary plat). Through a Grant of Easement recorded on July 17, 2007 (Exhibit C-1: Document 591947), Alan Bradley granted the 30-foot wide access easement along the southern boundary of Tract A of COS 509504-F to the subject property.
5. The applicant is proposing to improve the two internal roads to meet County standards. The Ravalli County Road and Bridge Department has issued preliminary approval of the road plans (Exhibit A-1). Section 3-4-4 requires final road plans, road certifications, and final approval from the Road Department that the roads were constructed to meet County standards prior to final plat approval.

Conclusions of Law

1. Legal and physical access is provided on Eight Mile Creek Road and Upper Woodchuck Road.
2. With the final plat requirements, legal and physical access will be provided on Hackamore Trail and High Withers Trail.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Findings of Fact

1. The applicant is proposing to construct the internal roads within the subdivision to meet County standards.
2. The applicants propose to chip-seal and realign the portion of Upper Woodchuck Road that leads to the subdivision. The applicant submitted a petition to alter Upper Woodchuck Road on July 13, 2007. The County is currently processing the petition. Viewers will be appointed to visit the road. A public hearing for the petition to alter Upper Woodchuck Road will be conducted concurrently with the public hearing for the Saddle Hills Major Subdivision and Two Variance Requests.
3. Section 3-4-4(a)(xxvi) requires that the applicant submit evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval.

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Finding of Fact

The application states that the property does not have water rights.

Conclusion of Law

Since there are no water rights, this requirement has been met.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. According to the application and the preliminary plat, there is a 10-foot wide irrigation easement centered on an existing irrigation ditch that traverses the southern portion of the subdivision.
2. Section 3-4-4(a)(ii)(V) requires that the irrigation easement be shown on the final plat.
3. The placement of structures or the planting of vegetation other than grass within the ditch easement is prohibited in 76-3-504(1)(k) MCA, without the



written permission of the ditch owner (Eight Mile Creek Company). To meet this requirement, the applicant shall place a notification in the Notifications Document that permission from the Eight Mile Creek Company is required for any alterations within the irrigation easement. (Condition 1)

#### Conclusion of Law

With the requirements of final plat approval and a condition requiring a notification that permission from the Eight Mile Creek Company is required for any alterations within the easement, this requirement will be met.

#### **F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

##### Findings of Fact

1. The application states that 1.84 acres are required to meet the parkland dedication requirement.
2. The applicant is proposing to donate a 2.66-acre park. There is not direct access to the park off the internal subdivision roads. A 20-foot wide walking path is proposed across Lot 2 to provide access to the park. There does not appear to be an easement proposed.
3. Because of the steep slopes and irrigation ditch in the proposed park, and the large lot sizes, the Park Board recommends cash-in-lieu of parkland dedication (Exhibits A-2 and A-3).
4. In accordance with 76-3-621(4), MCA, "the governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks, playgrounds and giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation." (See also Section 6-1-5(e), RCRS)

##### Conclusions of Law

1. The applicant has proposed a parkland donation that meets the park area requirements.
2. In accordance with the Park Board's recommendation, it appears the proposal to meet the parkland dedication is not appropriate.
3. The BCC will evaluate the proposal and consider the expressed preference of the subdivider and the recommendations of the Park Board and Planning Board during their deliberations. A final determination as to what an appropriate parkland dedication is for this subdivision will be made by the BCC.

#### **G. Overall Findings and Conclusions on Prerequisite Requirements**

### Finding of Fact

Evaluation of the appropriateness of the parkland dedication will be completed during the BCC review of the proposal.

### Conclusion of Law

With the conditions and requirements of final plat approval, and a BCC decision on parkland dedication, there is credible evidence that the subdivision application meets the prerequisite requirements.

## **COMPLIANCE WITH APPLICABLE REGULATIONS**

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

### **A. These regulations, including, but not limited to, the standards set forth in Chapter 5.**

#### Findings of Fact

1. Section 5-2-2(a)(3) of the Ravalli County Subdivision Regulations states: "No lot shall be divided by a public road or right-of-way." The applicant is proposing to realign Upper Woodchuck Road, a County road, to be centered on the eastern boundary of the subdivision. Currently, the road easement divides the property and proposed lots within the subdivision.
2. The applicant submitted a petition to alter Upper Woodchuck Road on July 13, 2007. The County is currently processing the petition. Viewers will be appointed to visit the road. A public hearing for the petition to alter Upper Woodchuck Road will be held concurrently with the public hearing for the Saddle Hills Major Subdivision and Two Variance Requests.
3. Section 5-2-2(a)(3) states that no lot shall be divided by a public road or right-of-way. The current proposal is to realign Upper Woodchuck Road so that a maximum grade of 10.8% can be reached. The realignment will also move Upper Woodchuck Road to the edge of Lots 8 and 9 (the current location of the road would bisect both lots). If the realignment to Upper Woodchuck Road is approved by the BCC, the subdivision design will meet all of the requirements in Chapter 5 of the Subdivision Regulations. If the petition is not approved, the applicant has submitted an alternative design showing additional easement for Upper Woodchuck Road along Lots 8 and 9 such that a public road will not bisect any lots.
4. The Ravalli County Planning Department has reviewed this proposal in compliance with the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. With the conditions and requirements of final plat approval for the subdivision and Variance 2, and payment of the pro rata share on Eight Mile Creek Road, the application will meet the design standards in Chapter 5.

**Conclusions of Law**

1. With the conditions and requirements of final plat approval for the subdivision and Variance 2, and payment of the pro rata share on Eight Mile Creek Road, the preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision, as outlined in Chapter 3 of the RCSR, have been followed.

**B. Applicable zoning regulations.**

**Findings of Fact**

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038), which has been determined to be a minimum lot size restriction. The density of this subdivision is about one dwelling unit per 6.00 acres, with a minimum lot size of 2.00 acres.
2. The property is not within one of the voluntary zoning districts in Ravalli County.

**Conclusion of Law**

This proposal complies with existing zoning regulations.

**C. Existing covenants and/or deed restrictions.**

**Finding of Fact**

There are no known existing covenants that apply to the property.

**Conclusion of Law**

This provision does not apply.

**D. Other applicable regulations.**

**Findings of Fact**

1. Following are regulations that may apply to this subdivision:
  - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
  - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
  - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
  - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
  - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at the updated pre-application conference held on February 6, 2007.

**Conclusion of Law**

The application appears to meet all of the applicable regulations.

**E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:**

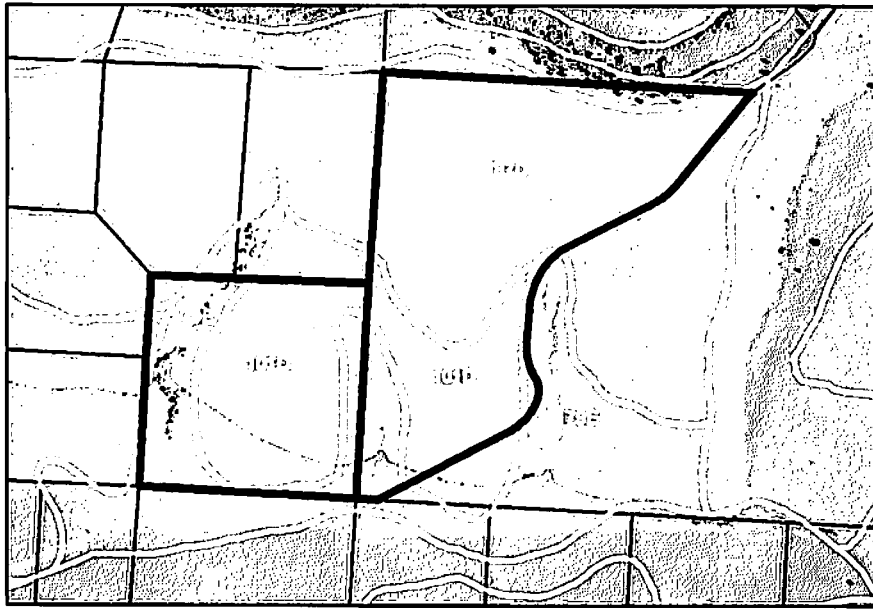
**CRITERION 1: EFFECTS ON AGRICULTURE**

**Findings of Fact:**

1. The property is located approximately six miles northeast of the community of Florence off of Upper Woodchuck Road. According to the Montana Cadastral Database created by *Montana Department of Administration, Information Technology Services Division, Geographic Information Services*, all of the parcels surrounding the property are classified as agricultural rural. From the Montana Cadastral Database and the 2004 aerial photograph, the parcels south of the subject property are irrigated, and the parcels to the east, west, and north are grazed.

*To mitigate impacts on agriculture, a notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*

2. None of the property has soils listed as Prime Farmland or Farmland of Statewide Importance. Most of the property is listed as Farmland of Local Importance (Map Unit Symbols 187D and 101D) on the *Web Soil Survey* by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS). A description of Farmland of Local Importance is attached (Exhibit A-4). In a conversation with Jay Skovlin, local NRCS soil scientist, Mr. Skovlin stated that the Farmland of Local Importance classification was not intended to be used to determine important agricultural land. It is the lowest tier of farmland soils and the criteria have a low threshold so this classification does not show the most productive soils in the Valley. The classification will be used as a preliminary screening tool for the Farm and Ranch Land Protection Program. Mr. Skovlin will be writing the County a letter to summarize this information.



**Map 2: Farmland of Local Importance**  
(Source: USDA NRCS)

3. The applicants submitted a Ravalli County Subdivision "Ground Disturbance and Noxious Weed" Management Plan that stated native wheat grasses, spotted knapweed, and non-toxic koschia are located on the property. The plan has been approved by the Weed Board and Section 3-4-5(b)(vi) requires that the plan is filed with the final plat. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the weed board for approval by the board. The subdivider has proposed a provision in the covenants that the owners of each lot control noxious weeds.

*To mitigate impacts on agriculture, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision.  
(Condition 2)*

**Conclusion of Law:**

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on agriculture will be reduced.

**CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES**

**Findings of Fact**

1. According to the application and the preliminary plat, there is a 10-foot wide irrigation easement centered on an existing irrigation ditch that traverses the southern portion of the subdivision.

*To mitigate impacts on agricultural water user facilities by ensuring that irrigation easements are in place, all existing and proposed irrigation easements shall be shown on the final plat as they were shown on the preliminary plat. (Condition 3)*

2. According to the application, there are no water rights associated with this property.

*To mitigate impacts on water rights holders in the area, the notifications document filed with the final plat shall include a statement that the lots within this subdivision do not have the right to take water from the ditch that runs through the subdivision. A note to this effect shall also be placed on the final plat. (Conditions 1 and 4)*

3. The applicants are proposing to alter the existing irrigation ditch by installing a new culvert for Upper Woodchuck Road. In a letter dated March 20, 2007 (Exhibit A-6), the Eight Mile Creek Company stated that they approve of the plan for a new culvert on Upper Woodchuck Road.

*As a requirement of final plat approval, Section 3-4-4(a)(xxi) of the RCSR requires the approval of the downstream water users, in this case the Eight Mile Creek Company, when irrigation infrastructure is to be altered.*

#### **Conclusion of Law:**

With the mitigating conditions of approval and requirements of final plat approval, impacts on agricultural water user facilities will be reduced.

#### **CRITERION 3: EFFECTS ON LOCAL SERVICES**

##### **Findings of Fact:**

1. The subdivision is located within the Florence Rural Fire District. In an email dated April 14, 2007 (Exhibit A-7), Dan Martin, Chief of the Florence Rural Fire District, stated that he had no concerns about the variances and recommended residential sprinklers. The Florence Rural Fire District has adopted a policy that addresses access, posting of addresses, and water supply requirements (Exhibit A-8).
2. At the August 15, 2007 Planning Board public meeting on Saddle Hills, the applicants stated that they have discussed the possibility of a land donation with the Fire District. The applicants requested that the condition regarding impacts to the Fire District allow the flexibility for a land donation.

*The following conditions will mitigate impacts of the subdivision on the Fire District:*

- *Provisions in the covenants requiring that addresses are posted as soon as construction begins and that driveways exceeding 150 feet in length are constructed to accommodate fire trucks. (Condition 2)*

- *Provide adequate water supply or a \$500 per lot contribution and/or a land donation to the Florence Rural Fire District, as approved by the Fire District. (Condition 5)*
  - *Notification that the Florence Rural Fire District recommends that future lot owners install residential sprinklers. (Condition 1) (Staff Note: Due to recent litigation in Lewis and Clark County regarding conditions of subdivision approval to mitigate impacts on fire services that were similar to building codes, such as residential sprinklers, the Planning Department does not recommend that residential sprinklers are required.)*
3. The draft report titled *Impact Fees to Fund Growth-Related Capital Improvements* by TischlerBise states that "dividing the Fall Enrollment of 911 students in SY05-06 by the estimated number of housing units in the [Florence-Carlton] school district (i.e. 2,157 housing units in 2006) yields an average of 0.42 public school students per housing unit." Using this data, it is estimated that approximately 8 school-aged children will be added to the Florence-Carlton School District with this subdivision.
  4. The subdividers stated they will make a \$250 per lot contribution to the School District upon first conveyance of each lot.
  5. In a letter dated June 21, 2007 (Exhibit A-9), the Florence-Carlton School District requested a \$10,418 per lot contribution. The amount is based on information commonly requested by the county commissioners when reviewing subdivisions, and information from an August 8, 2006 Impact Fee Study.

*To mitigate impacts on the School District, the applicant shall submit a letter or receipt from the Florence-Carlton School District stating that they have received a (amount)-per-lot contribution prior to final plat approval. (Condition 6) (Staff Note: Since the applicants and the School District did not agree on an amount, the applicants' proposal is not based on any facts, and the School District's proposal is based on the Impact Fee Study for capital improvements, which cannot be used to determine voluntary contributions per MCA 76-3-510, staff recommends that the BCC negotiate an amount with the applicants and include the appropriate finding(s) supporting the amount in their decision.)*

6. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems.
7. The Ravalli County Sheriff's Office provides law enforcement services to this area. No comments have been received by the Sheriff's Office. The current level of service is not known, but it is generally understood that the Sheriff's Office is operating at an inadequate level of service. The applicant is not proposing any mitigation.

*To mitigate impacts on the law enforcement, the subdivider shall submit a (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval. (Condition 7) (Staff Note: Since the current or planned level of service for the Sheriff's Office is unknown and the applicant has not proposed any mitigation, Staff recommends the BCC negotiate an amount per lot with the applicants*

*and include the appropriate finding(s) supporting the amount in their decision.)*

8. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department and/or Missoula Emergency Services. Both emergency service providers were contacted but no comments have been received by either entity.
9. Bitterroot Disposal provides service to this site.
10. The application states that Qwest, Ravalli Electric Cooperative, and NorthWestern Energy will provide utilities to the subdivision. There is an existing public utility easement on Upper Woodchuck Road and an 80-foot wide utility easement across Lot 20 for an overhead power line. Utility easements are proposed on the internal roads to ensure that each lot has access to utilities.

*Section 3-4-4(a)(ii)(V) requires that the existing and proposed utility easements are shown on the final plat.*

11. There are 20 proposed single-family residential lots within this subdivision. It is estimated at build-out that this subdivision will generate a total of 160 vehicular trips per day, assuming 8 trips per day per single-family dwelling.
12. Eight Mile Creek Road and Upper Woodchuck Road, both County-maintained roads providing access to the subdivision, do not meet County standards. The applicant has requested variances from the requirement to pay the pro-rata share of the cost to improve the portion of these roads that provide access to the subdivision. Instead of paying the pro rata share on both roads, the applicant is proposing to improve the portion of Upper Woodchuck Road leading to the subdivision to have a chip-sealed surface. (See variance reports) There is currently no stop sign located at the intersection of Eight Mile Creek Road with Upper Woodchuck Road.

*To mitigate impacts on the off-site roads leading to the subdivision, the following conditions and requirements shall be met:*

- *With the denial of Variance 1, the applicants shall pay the pro rated share of the cost to improve the portion of Eight Mile Creek Road leading to the subdivision to meet County standards, as required by Section 5-4-5(d).*
  - *As a condition of variance approval (Variance 2), the applicants shall improve Upper Woodchuck Road, as proposed in the road plans that received preliminary approval from the Ravalli County Road and Bridge Department, prior to final plat approval. (Condition 17)*
  - *Section 3-4-4(a)(xiii) requires that the applicant submit an approach permit from the Road Department for the new approach off Upper Woodchuck Road.*
  - *The final plat shall show a no-ingress/egress zone along the Upper Woodchuck Road frontage of the subdivision, excepting the approach for the internal road, as approved by the Ravalli County Road and Bridge Department. A notification of this limitation of access shall be included in the notifications document. (Conditions 1 and 8)*
  - *A stop sign shall be installed at the intersection of Eight Mile Creek Road with Upper Woodchuck Road. (Condition 10)*
13. The subdivider is proposing to construct internal subdivision roads to provide access to all lots within the subdivision. The application packet states that the internal roads



are proposed to meet County standards. The road plans have received preliminary approval from RCRBD (*Exhibit A-1*).

*To ensure that future lot owners have adequate access and to mitigate impacts on local services, the following requirements and conditions shall be met:*

- *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ, evidence of a Ravalli County-approved road name petition for each new road, final road plans and grading and storm water drainage plan, road certifications, and a signed/notarized road maintenance agreement, and evidence that road improvements have been made in accordance with the conditions of approval and requirements of final plat approval are required by Section 3-4-4(a) of the RCSR prior to final plat approval.*
  - *The easements for the internal subdivision roads shall be labeled as public road and utility easements on the final plat. (Condition 9)*
  - *A preliminary road maintenance agreement was included in the application packet. The final plat application packet is required to include a road maintenance agreement that meets the requirements of the Ravalli County Subdivision Regulations per Section 3-4-4(a)(xix). A notification of the road maintenance agreement shall be included in the notifications document filed with the final plat. (Condition 1)*
  - *To avoid duplication of road maintenance between the future owners of this subdivision and other properties to the west and north, which may have access, the Road Maintenance Agreement filed with the final plat shall allow for other properties that have beneficial use of the internal subdivision road to be included as parties to this agreement without the consent of the property owners within the Saddle Hills Subdivision. (Condition 11)*
  - *Stop signs and road name signs shall be installed at the intersections of Upper Woodchuck Road with High Withers Trail, and the two intersections of High Withers Trail with Hackamore Trail. (Condition 10)*
14. Around February 10, 2006, the applicants pursued a Rural Special Improvement District (RSID) to improve Upper Woodchuck Road, but landowners in the area were not interested. Because of the poor condition of Upper Woodchuck Road, the applicants are proposing to improve the portion of the road leading to the Saddle Hills Subdivision to meet County standards in lieu of paying pro rata on Upper Woodchuck Road and Eight Mile Creek Road. In order to make the proposed improvements, Upper Woodchuck Road needs to be realigned. In conjunction with the subdivision and variance proposals, the applicants have petitioned for the realignment of Upper Woodchuck Road.
15. In the past few weeks, landowners in the area have expressed interest in pursuing an RSID for Upper Woodchuck Road. On July 18, 2007, the applicants' representative met with Planning Staff, the County Attorney's Office, and the Commissioners for a phone conference with bond counsel. The conclusion was that an RSID process on the unsubdivided, raw land in the Upper Woodchuck Road area would be risky because there would be few landowners paying assessments and bonds sold through an RSID may not be marketable. It appears that the RSID process for improving roads is usually used in areas that are already populated. While there may be potential for a future RSID on Upper Woodchuck Road, the applicants are not pursuing an RSID as part of this proposal. They are proposing to

hard-surface or chip-seal the portion of the road leading to Saddle Hills in hopes that a future RSID will pave the road.

*To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 12)*

16. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU) and that the locations of the boxes be approved by the USPS (Exhibit A-10).

*To mitigate impacts on local services, the applicants shall provide evidence that plans for a CBU (location and specifications) have been approved by the local post office. (Condition 13)*

#### **Conclusion of Law:**

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

#### **CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT**

##### **Findings of Fact:**

1. In an email dated January 10, 2007 (Exhibit A-11), the Montana Department of Environmental Quality (DEQ) identified the Hamilton and Missoula areas as communities with a high probability of failing to meet the recently revised National Ambient Air Quality Standards for particulate matter. Sources of particulate from this subdivision could be vehicles, wood-burning stoves, and dust generated from Upper Woodchuck Road. The applicant is proposing to construct all internal roads to meet County standards, which includes pavement.

*To mitigate impacts on the natural environment, the following conditions shall be met:*

- *The applicants shall hard-surface Upper Woodchuck Road, as proposed in the road plans that received preliminary approval from the Ravalli County Road and Bridge Department, prior to final plat approval. (Condition 17)*
  - *A recommendation for EPA-certified wood stoves shall be included in the covenants. (Condition 2)*
2. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur (Exhibit A-12).

*Section 3-4-4(a)(ix) requires a DEQ Certificate of Subdivision Approval prior to final approval.*

3. In a letter dated April 20, 2007 (Exhibit A-5), the Montana Department of Environmental Quality (DEQ) stated: "The information submitted is inadequate for the Department to determine that the proposed water supply is adequate." DEQ recommended that the irrigatable acreage be limited to  $\frac{1}{4}$  acres per lot and that wells be located to have a minimum distance of 200 feet between wells. In a phone conversation, Eric Regensburger, DEQ, stated that he would require 200 feet of separation for wells (except for the existing wells on Lots 11 and 12) before granting the DEQ Certificate of Subdivision Approval. He recommends that the requirement is also stated in the covenants to inform future owners.

*To mitigate impacts on water availability, the covenants shall include a provision that each lot is limited to 1/4 acre of well-supplied irrigation property (e.g. lawn, garden, shrubbery, and trees), and the irrigated area shall be limited to the area immediately surrounding the home site. Also, the covenants shall require that any proposed wells are located 200 feet from existing wells. (Condition 2)*

4. The property is located approximately 180 feet south of Woodchuck Creek, which drains an area less than 15 square miles and does not require a floodplain analysis. A bench separates Woodchuck Creek from the property. Eight Mile Creek is about 2,000 feet to the south of the property and does not require a floodplain analysis due to its distance from the subject property. The applicants are proposing a no-build/alteration zone over the slopes greater than 25% that are associated with Woodchuck Creek.

*To mitigate impacts on natural environment, the final plat shall show a no-build/alteration zone over the steep slopes associated with Woodchuck Creek, as shown on the preliminary plat. Riparian covenants shall apply to the no-build/alteration zone. (Conditions 2 and 14)*

5. There are two natural drainages that traverse the property. A natural drainage traverses a few lots in the south-center portion and the other natural drainage traverses the western portion of the property. The applicants are proposing no-build/alteration zones over the slopes greater than 25% that are associated with the natural drainages.

*Section 5-8-1(g) requires that natural drainage ways are preserved except for necessary crossings in which the capacity of existing drainage ways shall be preserved.*

*Section 5-2-2(a)(11) requires that no-build/alteration zones are shown on the slopes greater than 25% that are associated with the drainages. Public road and utility easements, as shown on the preliminary plat, shall not be shown as no-build/alteration zones on the final plat. Provisions regarding the protection of these drainage areas should be included in the covenants. (Conditions 1, 2, and 14)*

6. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution.

*To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

7. The applicants submitted a Ravalli County Subdivision "Ground Disturbance and Noxious Weed" Management Plan that stated native wheat grasses, spotted knapweed, and non-toxic koschia are located on the property. The plan has been approved by the Weed Board and Section 3-4-5(b)(vi) requires that the plan is filed with the final plat. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the weed board for approval by the board. The subdivider has proposed a provision in the covenants that the owners of each lot control noxious weeds.

*To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

8. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (application).

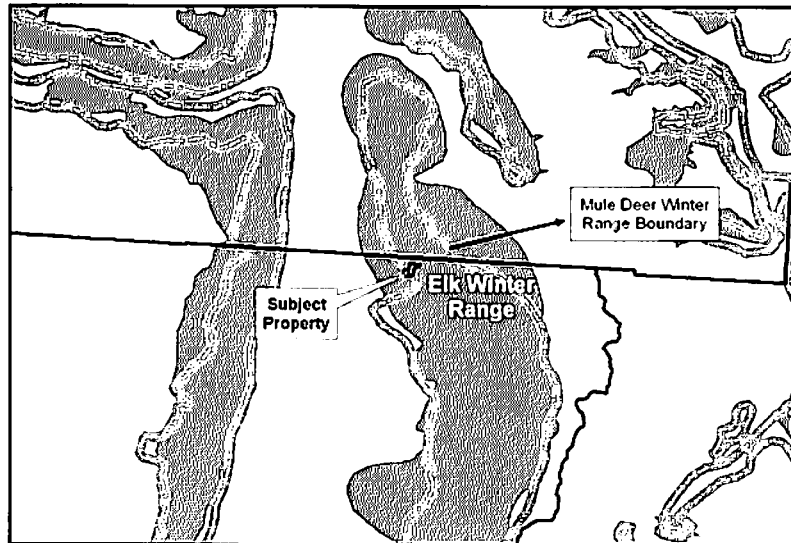
#### Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

#### CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

##### Findings of Fact:

Map 3 shows elk and mule deer winter range boundaries in relation to Saddle Hills at a scale of 1:250,000. The data was created by FWP and the Rocky Mountain Elk Foundation at a scale of 1:250,000 and should not be used at a larger scale (zoomed in closer to Saddle Hills). At this scale, the entire property is located within elk winter range and about half of the property is within mule deer winter range.



**Map 3: Elk and Mule Deer Winter Range**  
(Source Data: FWP)

Recommendations and comments from FWP from a letter dated July 17, 2006 (Exhibit A-13) are summarized as follows:

- a) The entire property is within elk and mule deer winter range in the Miller-Eightmile survey unit, which is currently used by 500 to 550 elk and an undetermined number of mule deer.
- b) The most important elk and mule deer habitat of the subject property are the upper slopes on Lot 20. Lot 20 should remain undeveloped in the future and the single residence on Lot 20 should be placed at low elevation.
- c) A 50-foot setback (no-build/alteration zone) should be placed on both sides of the centerlines of each of the two drainages that traverse the property. Provisions regarding the protection of these riparian areas should be included in the covenants.
- d) Living with wildlife provisions should be included in the covenants. A provision that the living with wildlife provisions cannot be altered without governing body approval should also be added.

In a letter dated August 11, 2006 (Exhibit A-14), Steve Fisher, a biologist with Fisher and Associates – Aquatic Resource Management and Enhancement, made the following comments and recommendations regarding FWP's comments:

- a) During a site visit on August 10, 2006, Mr. Fisher saw no evidence of recent habitation by mule deer or elk. He understands why the general neighborhood is considered winter range, but does not think the subject property is a critical component in the overall big game habitat.
- b) He stated that there are no riparian areas on the subject property.

A letter from FWP dated April 20, 2007 (Exhibit A-15) is summarized as follows:

- a) Mr. Fisher's site visit on August 10, 2006 was done when the migratory elk population is on summer range, which is located many miles away from the subject property. Mr. Fisher did not indicate what kind of evidence of elk and deer he was looking for.
- b) John Vore, wildlife biologist for FWP, completed a survey of the subject property on April 9, 2007. He found 58 deer pellet groups and 4 elk pellet groups while walking on the subject property and the immediate surrounding area.
- c) The previous recommendations in the letter dated July 17, 2006 were restated.

On May 31, 2007, the Planning Department held a conference call with John Vore (FWP biologist), the applicants, Territorial-Landworks, Inc. (consultant representing the applicants), and Steve Fisher to discuss the wildlife issues. Steve Fisher again stated that the subject property has little value for wildlife and John Vore reiterated that the entire property is important elk and deer habitat. Territorial-Landworks, Inc. summarized their understanding of the meeting in a letter dated June 14, 2007 (Exhibit A-16). The letter specifically stated that everyone at the meeting agreed that discussions about restricting development on Lot 20 should occur when the lot is being reviewed for further development.

In a letter dated June 25, 2007 (Exhibit A-17), FWP stated that the overview of the May 31, 2007 conference call by Territorial-Landwork, Inc. was incorrect. FWP stated that restrictions on Lot 20 should be considered in the context of the entire Eightmile and Upper Woonchuck area. Since there is no plan in place, the impacts of the proposed subdivision on wildlife habitat need to be considered now. The entire development is in elk and mule deer winter range. The impacts of the development will exceed the boundaries of the subdivision. FWP restated that one single residence should be allowed in the low elevation of Lot 20 and that future development of the lot should be restricted.

In conclusion, there are the following two arguments:

- a) The entire property is within elk and mule deer winter range. To mitigate impacts of the development on wildlife habitat, Lot 20 should be restricted from further development.
- b) While the Eightmile area is winter range for elk and mule deer, this particular piece of property does not provide important habitat. If Lot 20 is permanently restricted from development, there is no guarantee that the properties surrounding the subject property will remain free from development in the future.

Both FWP and Steve Fisher agree that this property is part of elk and deer winter range. Without any zoning or a more detailed wildlife plan for the area, it is difficult to impossible to determine how the future use of this property will impact wildlife habitat. According to FWP, Lot 20 could provide a buffer between development and elk and deer habitat to the north. If dense development is constructed north from this property into Missoula County in the future, then Lot 20 would no longer provide for that buffer.

*To minimize impacts of the subdivision on wildlife habitat, the following conditions shall be met:*

- *A provision restricting development on Lot 20 until the lot is included in a permanent zoning district shall be included in the covenants. (Condition 2)*
- *A building envelope, not to exceed one acre in total land area, shall be shown within the southwestern portion of Lot 20 on the final plat. The building envelope shall be located wholly below an elevation of 3,880 feet above sea level, as shown on the preliminary plat. A note shall be placed on the final plat, stating that no buildings may be placed or constructed within Lot 20 outside of the platted building envelope, and that Lot 20 shall not be further subdivided, except in accordance with the covenants filed with the final plat. (Condition 15)*
- *One-hundred-foot wide no-build/alteration zones shall be centered on both the natural drainages traversing the property (one drainage traverses Lots 1 through 4 and the other drainage traverses north/south through the center of the property). Public road and utility easements, as shown on the preliminary plat, shall be excepted from the no-build/alteration zones. Provisions regarding the*

*protection of these riparian areas shall be included in the covenants. (Conditions 2 and 14)*

- *Living with wildlife provisions shall be included in the covenants. (Condition 2)*
- *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

Both the westslope cutthroat trout and bull trout were identified by the Montana Natural Heritage Program as species of concern within the same sections as the subject property, but because there are no perennial or intermittent streams on the property, the subdividers requested and received a waiver from the requirement to submit a sensitive species report.

#### **Conclusion of Law:**

With the mitigating conditions of approval and requirements of final plat approval, impacts on wildlife & wildlife habitat will be reduced.

#### **CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY**

##### **Findings of Fact:**

1. The applicant is proposing to realign and chip-seal Upper Woodchuck Road in lieu of paying the pro rata share on both Upper Woodchuck Road and Eightmile Creek Road. The applicant is proposing to construct the internal roads to meet County standards. (See *Effects on Local Services* and variance reports)

*To mitigate impacts on traffic safety, the following conditions and requirements shall be met:*

- *The applicants shall pay the pro rated share of the cost to improve the portion of Eight Mile Creek Road leading to the subdivision to meet County standards, as required by Section 5-4-5(d).*
- *As a condition of variance approval (Variance 2), the applicants shall improve Upper Woodchuck Road, as proposed in the road plans that received preliminary approval from the Ravalli County Road and Bridge Department, prior to final plat approval. (Condition 17)*
- *Section 3-4-4(a)(ii)(xiii) requires that the applicant submit an approach permit from the Road Department for the new approach off Upper Woodchuck Road.*
- *The final plat shall show a no-ingress/egress zone along the Upper Woodchuck Road frontage of the subdivision, excepting the approach for the internal road, as approved by the Ravalli County Road and Bridge Department. A notification of this limitation of access shall be included in the notifications document. (Condition 8)*
- *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ, evidence of a Ravalli County-approved road name petition for each new road, final road plans and*

*grading and storm water drainage plan, road certifications, and a signed/notarized road maintenance agreement, and evidence that road improvements have been made in accordance with the conditions of approval and requirements of final plat approval are required by Section 3-4-4(a) of the RCSR prior to final plat approval.*

- *Stop signs and road name signs shall be installed at the intersections of Upper Woodchuck Road with High Withers Trail, and the two intersections of High Withers Trail with Hackamore Trail. (Condition 10)*
  - *The subdivider shall apply for County-issued addresses and a provision requiring property owners to post County-issued addresses at their driveways shall be in the covenants. (Conditions 2 and 16)*
2. The proposed subdivision will be served by the Florence Rural Fire District, the Ravalli County Sheriff's Office, Marcus Daly Memorial Hospital EMS Department. (See *Effects on Local Services*)

*To mitigate impacts on emergency providers, the following conditions shall be met:*

- *Provisions in the covenants requiring that addresses are posted as soon as construction begins and those driveways exceeding 150 feet in length are constructed to accommodate fire trucks. (Condition 2)*
  - *Provide adequate water supply or a \$500 per lot contribution to the Florence Rural Fire District. (Condition 5)*
  - *Notification that the Florence Rural Fire District recommends that future lot owners install residential sprinklers. (Condition 1) (Staff Note: Due to recent litigation in Lewis and Clark County regarding conditions of subdivision approval to mitigate impacts on fire services that were similar to building codes, such as residential sprinklers, the Planning Department does not recommend that residential sprinklers are required.)*
  - *The subdivider shall submit a (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval. (Condition 7)*
3. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur (Exhibit A-12).
- Section 3-4-4(a)(ix) requires a DEQ Certificate of Subdivision Approval prior to final approval.*
4. There are slopes greater than 25% within the subdivision. The applicant is proposing and will be required to show no-build/alteration zones over the steep slopes, except for the portion of Hackamore Trail that traverses the steep slopes. The applicant has received preliminary approval of the road plans for Hackamore Trail.



*To mitigate impacts of the steep slopes on public health and safety, the following requirements and conditions shall be met:*

- *Section 5-2-2(a)(11) requires that no-build/alteration zones encompass the slopes greater than 25% associated with both the natural drainages traversing the property (one drainage traverses through Lots 1 through 4 and the other drainage traverses north/south through the center of the property) on the final plat. Public road and utility easements, as shown on the preliminary plat, shall not be included in the no-build/alteration zones. (Condition 14)*
  - *Notification of the no-build/alteration zones shall be included in the notifications document. (Condition 1)*
5. The preliminary plat and soils map indicate that the subdivision may have soils rated as "very limited" for road and building construction.

*To educate property owners and to mitigate potential impacts of this subdivision on public health & safety, a notification of the potential for severe soils shall be included in the notifications document filed with the final plat. A reduced plat showing the approximate locations of soils rated as "very limited" for roads and building construction and descriptions of the severe soils in question shall be attached to the notifications document as an exhibit. (Condition 1)*

6. There is a high voltage transmission line within an 80-foot wide utility easement operated by NorthWestern Energy that traverses Lot 20 of the subdivision.

*To mitigate impacts on public health and safety, a notification of the high voltage transmission line and associated easement shall be included in the notification document. (Condition 1)*

7. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. (Condition 2)
8. According to a document titled *Radon and You, Promoting Public Awareness of Radon* in Montana's *Air and Ground Water* published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. To mitigate impacts on public health & safety, the covenants shall include a statement regarding radon exposure. (Condition 2)

**Conclusion of Law:**

The mitigating conditions and requirements of final plat approval will address impacts on public health & safety.

## **VARIANCE REQUEST #1**

The subdivider is requesting a variance from Section 5-4-5(d) of the RCSR, to relieve the subdivider from paying the pro rata share of the cost to improve the portion of Eight Mile Creek Road leading to the subdivision. As mitigation, the applicant is proposing to realign and chip-seal the portion of Upper Woodchuck Road leading to the subdivision.

### **Variance Review Criteria – Part 1**

In reviewing the variance request, Section 7-3-5(a) states the BCC shall first determine the following:

#### **A. Strict compliance with these regulations will result in undue hardship.**

##### **Findings of Fact:**

1. Upper Woodchuck Road has a gravel surface and a maximum grade of 12%. The applicants would like to improve Upper Woodchuck Road to be in a safe, operating condition. There is no guarantee that pro rata funds deposited for either Upper Woodchuck Road or Eight Mile Creek Road would ever be spent on Upper Woodchuck Road. The application states that the hardship would be on Ravalli County and future home owners of Saddle Hills if the variance was not granted.
2. The applicants are proposing to go above and beyond the pro rata requirement on Upper Woodchuck Road to mitigate the impacts of the proposed subdivision on that road. They would like to improve Upper Woodchuck Road in exchange for relief from paying the pro rata share on both Upper Woodchuck Road and Eight Mile Creek Road. No improvements or contributions are proposed for Eight Mile Creek Road. There is a hardship in being required to pay the pro rata share on Upper Woodchuck Road in addition to making improvements to that road, but there is no hardship regarding Eight Mile Creek Road because the applicants are not proposing to make any improvements.

##### **Conclusion of Law:**

Strict compliance with these regulations will not result in undue hardship.

#### **B. Compliance is not essential to the public welfare.**

##### **Findings of Fact:**

1. The application states that the County has not improved Eight Mile Creek Road in recent years so pro rata funds must not be essential to public welfare.
2. While the applicant is proposing to improve Upper Woodchuck Road, no improvements or contributions are proposed for Eight Mile Creek Road. Traffic generated from the subdivision will add 160 trips to the road.
3. In correspondence dated June 27, 2006 (Exhibit A-1) and August 7, 2007 (Exhibit A-18), Ravalli County Road Superintendent David Ohnstad

expressed opposition to the proposed variance, stating that "additional traffic demands upon the roadway may impact the safety of roadway users."

Conclusion of Law:

Compliance is essential to the public welfare.

**C. Overall Findings and Conclusions on Hardship and Public Welfare**

Findings of Fact

1. Strict compliance with these regulations will not result in undue hardship.
2. Compliance is essential to the public welfare.

Conclusion of Law

The variance application does not provide evidence that there is an undue hardship or that compliance with the RCSR is not essential to the public welfare.

**VARIANCE REQUEST #2**

The subdivider is requesting a variance from Section 5-4-5(d) of the Ravalli County Subdivision Regulations, to relieve the subdivider from paying the pro-rata share of the cost to improve the portion of Upper Woodchuck Road leading to the subdivision. As mitigation, the applicant is proposing to realign and chip-seal this portion of Upper Woodchuck Road. The Ravalli County Attorney's Office recommended that the public hearing for the realignment of Upper Woodchuck Road and the public hearing for the variance request be held at the same meeting. The applicant submitted a petition to realign Upper Woodchuck Road on July 13, 2007 (Exhibit C-2).

**Variance Criteria – Part 1**

In reviewing the variance request, Section 7-3-5(a) states the BCC shall first determine the following:

**A. Strict compliance with these regulations will result in undue hardship.**

Findings of Fact:

1. Upper Woodchuck Road has a gravel surface and a maximum grade of 12%. The applicants would like to improve Upper Woodchuck Road to be in a safe, operating condition. There is no guaranty that pro rata funds would actually be spent on Upper Woodchuck Road. The application states that the hardship would be on Ravalli County and future home owners of Saddle Hills if the variance was not granted.

2. The applicants are proposing to go above and beyond the requirement to pay the pro rata share on Upper Woodchuck Road, which is estimated at \$126,410.80, by offering to make actual improvements to Upper Woodchuck Road that would cost \$349,500. The hardship is that the applicant would like to improve Upper Woodchuck Road because of its poor condition, but does not want to also be required to pay the pro rata share on Upper Woodchuck Road. Condition 17 states that the applicants shall improve Upper Woodchuck Road, as proposed in the road plans that received preliminary approval from the Ravalli County Road and Bridge Department, prior to final plat approval.

**Conclusion of Law:**

Strict compliance with these regulations will result in undue hardship.

**B. Compliance is not essential to the public welfare.**

**Findings of Fact:**

1. The application states that there is no facilities plan for improving Upper Woodchuck Road or evidence that any pro rata funds would be spent on the road.
2. The applicants' proposal will have positive benefits to public welfare. The applicant will be making actual improvements to Upper Woodchuck Road that are greater in value than the pro rata requirement.

**Conclusion of Law:**

Compliance is not essential to the public welfare.

**C. Overall Findings and Conclusions on Hardship and Public Welfare**

**Findings of Fact**

1. Strict compliance with these regulations will result in undue hardship.
2. Compliance is not essential to the public welfare.

**Conclusion of Law**

The variance application provides evidence that there is an undue hardship and that compliance with the RCSR is not essential to the public welfare.

**Variance Review Criteria – Part 2**

Section 7-3-5(a) states that the BCC shall first determine whether or not there is a hardship or compliance with the RCSR is essential to public welfare. Following this determination, the BCC shall not approve the variance application unless it makes an overall positive finding on the criteria listed below. Staff concluded that the variance application does not provide evidence there is an undue hardship or that compliance with the RCSR is not essential to the public welfare. The following criteria were used in making that determination:

**A. The granting of the variance will not be substantially detrimental to the public health, safety or general welfare or injurious to other adjoining properties.**

Findings of Fact:

1. Upper Woodchuck Road is a County-maintained, gravel road that does not meet County standards.
2. The application states: "The existing road [Upper Woodchuck Road] alignment features a 12% grade for over 400 feet and vertical and horizontal curves far from compliance with AASHTO recommendations, including a horizontal curve appropriate for a 25 mph design speed and several vertical curves appropriate for a design speed less than 20 mph."
3. Section 5-4-5(d) requires the applicant to pay the pro rata share of the cost to improve the portion of Upper Woodchuck Road leading to the subdivision to meet County standards. According to the variance application, the estimated amount of the pro rata share would be \$126,410.80.
4. The applicants pursued improvements to Upper Woodchuck Road through the creation of a Rural Special Improvement District, but landowners in the area were not interested. Research by bond counsel has indicated that it may be difficult to sell bonds associated with an RSID on Upper Woodchuck Road because there is little existing development within the proposed district.
5. Because of the poor condition of Upper Woodchuck Road, the applicants are proposing to improve the road to have a 20-foot wide, chip-sealed surface from the intersection with Eight Mile Creek Road to the access of the subdivision. The road plans for Upper Woodchuck Road have received preliminary approval from the Ravalli County Road and Bridge Department. The applicants state that the proposal will improve the road to meet County standards, except for paving. The applicant has been granted a design waiver to allow for a 10.8% maximum grade instead of 10%. According to the application, the estimated cost of the proposed improvements is \$349,500.
6. In order to decrease the maximum grade to 10.8%, the applicant has also petitioned to have the road realigned. The BCC will make a decision on the realignment petition at the public hearing on the subdivision and variance requests.
7. In return for the road improvements on Upper Woodchuck Road, the applicant is requesting relief from paying the pro rata share on both Upper Woodchuck Road and Eight Mile Creek Road.
8. In correspondence dated June 27, 2006 (Exhibit A-1), Ravalli County Road Superintendent David Ohnstad stated: "We find that the scope of this variance is incidental to the safe design and function of the roadway, and there would be no public safety concern or increase in public costs." He later recommended that appropriate traffic control signs be identified and included in the final design submittal.
9. According to the application, the applicants met with the Florence Rural Fire District on October 17, 2005. At that meeting the applicants state that

the Fire District agreed to the proposed improvements to Upper Woodchuck Road and understood the limitations in building the road to meet County standards. On Saturday, April 14, 2007, Dan Martin, Chief of the Florence Rural Fire District stated in an email that he has no concerns about the variances (Exhibit A-7).

10. Upper Woodchuck is currently a gravel road. In an email dated January 10, 2007 (Exhibit A-11), the Montana Department of Environmental Quality (DEQ) identified the Hamilton and Missoula areas as communities with a high probability of failing to meet the recently revised National Ambient Air Quality Standards for particulate matter. Sources of particulate from this subdivision could be vehicles, wood-burning stoves, and dust generated from Upper Woodchuck Road.

*To mitigate impacts of granting the variance on public health and safety, the following conditions shall be met prior to final plat approval:*

- *Condition 17: The applicants shall improve Upper Woodchuck Road, as proposed in the road plans that received preliminary approval from the Road Department, prior to final plat approval. The policies and procedures in the Ravalli County Road and Bridge Department's Policy on Subdivision Assessment Coordination shall apply to final approval of the road improvements.*
- *Condition 18: The applicant shall identify locations for appropriate traffic control signs on Upper Woodchuck Road to mitigate any potential public health and safety concerns and submit plans with the final design submittal to the Ravalli County Road and Bridge Department.*

Conclusion of Law:

The applicants' proposed mitigation will be substantially beneficial to public health and safety, general welfare, and adjoining properties.

- B. The conditions on which the request for a variance is based are unique to the property on which the variance is sought and are not applicable generally to other property.**

Findings of Fact:

1. In the variance application, the applicants stated that the current condition of Upper Woodchuck Road is unique to the property and this is a unique opportunity for dramatic improvements.
2. There are many properties throughout Ravalli County that are accessed by substandard, County-maintained roads and there are a number of properties accessed by Upper Woodchuck Road with the same access situation.
3. Applicants of subdivisions of less than 21 lots are required to pay the pro rata share on any County-maintained roads leading to the subdivision.

Conclusion of Law:

While the applicants' proposal may be unique, the conditions upon which the variance is proposed are not unique to the property.

- C. Physical conditions, such as topography or parcel shape, prevent the subdivider from meeting the strict letter of these regulations. These conditions shall not result from the past actions of the land's current or previous owner(s).**

**Finding of Fact:**

The physical conditions of the property do not prevent the payment of pro rata on the cost to improve Upper Woodchuck Road.

**Conclusion of Law:**

The variance request does not meet this criterion.

- D. The variance will not in any manner vary the provision of the zoning regulations or the Growth Policy.**

**Findings of Fact:**

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038). The application complies with Resolution 2038. The zoning regulations in effect do not have any relevance for this variance request.
2. Relevant countywide provisions in the Ravalli County Growth Policy are outlined in italics below. Provisions of the Ravalli County Growth Policy are followed by an analysis (bulleted points) of the variance request against these provisions.

***Countywide Goal 4:** Provide necessary infrastructure and public services to accommodate population growth and new development without undue impacts on the quality, quantity and cost of service to existing residents.*

***Countywide Policy 4.4:** Improve and maintain existing infrastructure and public services.*

***Countywide Policy 4.5:** Developers will be responsible for providing the infrastructure necessary within the development such as community water, sewage treatment and roads. A system of "nexus and proportionality" will govern external infrastructure costs attributable to the developer.*

- With the mitigating condition, the applicant will exceed the required pro rata amount of \$126,410.80 by paying an estimated \$349,500 to actually improve Upper Woodchuck Road.

Conclusions of Law:

1. The subdivision proposal complies with applicable zoning regulations, but the zoning regulations are not relevant to the variance request.
2. With the mitigating condition, provisions in the Growth Policy support the granting of the variance.

**E. The variance will not cause a substantial increase in public costs.**

Findings of Fact:

1. In the variance request, the applicant states the improvement of Upper Woodchuck Road would reduce the County's maintenance costs on Upper Woodchuck Road, mitigate the impacts of subdivisions in Missoula County on Upper Woodchuck Road, provide a base for the future pavement of Upper Woodchuck Road, and eliminate the degradation of Eight Mile Creek Road through the "drag on" of grades.
2. In correspondence dated June 27, 2006 (Exhibit A-1), Ravalli County Road Superintendent David Ohnstad stated that there would be no increase in public cost if the applicant made the proposed improvements to Upper Woodchuck Road and traffic control signs were included in the final design submittal (Conditions 17 and 18).

Conclusion of Law:

With the mitigating conditions, granting the variance will not cause a substantial increase in public costs.

Commissioner Rokosch called for any comments from the Board, hearing none.

Commissioner Rokosch stated under the current subdivision regulations in which they are reviewing this subdivision today, the consideration of evidence includes an officially adopted growth policy, which will be considered as one factor and shall not be the sole basis of decision. In review of hearing the Planning Staff Report and reviewing the application, the only direct reference to the respective growth policy was in regard to the variance request. He stated it was insufficient. He further stated they will have deliberation on this particular subdivision and subdivisions in the future that are subject to this provision in the subdivision regulations. Ultimately, they are going to need to see a direct review of subdivisions with respect to the growth policy and provisions therein.

Commissioner Rokosch called for additional comments.

Commissioner Grandstaff stated in the Planning Board meeting on August 15<sup>th</sup> there was a motion to deny this subdivision based on the negative impacts on the view shed which is a growth policy issue. Renee stated Planning Board Member Lee Kierig made the motion as he was referencing the natural environment criterion. Commissioner Grandstaff asked if the Planning Board is using the growth policy as a basis for their decision to deny, then why it was not included in this discussion. Commissioner Rokosch stated it has not been included as part of the process prior to adoption. It should be included as part of the six criteria.



Commissioner Chilcott quoted MCA 76-1-605(b); which stated in part 'a governing body may not withhold, deny, or impose conditions on any land use approval or other authority to act based solely on compliance with a growth policy adopted pursuant to this chapter'. He stated the Planning Staff is recognized throughout the state for quality subdivision reviews. They do consider the growth policy in their reviews. To delay this further based on an insufficient review is the wrong thing to do. He felt they should move forward with their review.

Commissioner Driscoll stated her concern is the distance from services and the Sheriff's Department for emergency response.

Commissioner Rokosch stated the subdivision regulations require that subdivisions are consistent with provisions of the officially adopted growth policy. It is one factor and is not to be the sole basis of decision. Commissioner Grandstaff asked Bill Van Canaghan if he feels the Planning Staff incorporated the growth policy in the review. She stated she does not feel that way. Commissioner Chilcott stated the staff is well versed with the growth policy. He felt the Commissioners could look at things the Planning Staff may not have considered. He felt if the Commissioners want to use the growth policy in their review, they can do so. Commissioner Grandstaff stated her question had not been answered. Bill replied he believes the Planning Staff helped write the growth policy and therefore they would incorporate it in their reviews.

Karen stated the growth policy was the basis for defining the six criteria for subdivision review in the subdivision regulations. The growth policy can be used as evidence in the analysis of the impacts of a subdivision of the six criteria. When this set of regulations was adopted, the primary role of the growth policy was to be used as a foundation for developing a set of standards. It is listed in the evidence set. It is intended to be used as one tool in the whole process. One should not rely totally upon the growth policy.

Commissioner Chilcott stated under 76-1-606 MCA; when a growth policy has been approved, the subdivision regulations adopted pursuant to chapter 3 of this title must be made in accordance with the growth policy. It's the basis of the local regulations. Commissioner Rokosch replied he is talking about the specific application of the growth policy for developing credible evidence. That is what is absent.

Commissioner Rokosch called for any further comments or questions from the Board or Planning Staff, hearing none.

Commissioner Rokosch opened the floor for public comment for the variance requests.

Bill Van Canaghan stated he has legal input for the matter of growth policy and the issue of the view shed. Commissioner Rokosch stated he would like to hold that comment when they discuss the subdivision, as they are discussing the variances at the moment.

Steve Payton, President of the Bitterroot Valley Ranch Owners Association stated their area consists of two sections of land above Saddle Hills. They are in favor of the

variances. Their road system includes about 15 miles they have to maintain. These road improvements would enhance emergency response to their land.

Jason Rice discussed the variances. He relayed the pro rata is used to develop a general fund. It is not established for specific roads but used in an area. Money has not been allocated for Eight Mile Creek Road and Upper Woodchuck Road, and monies can be spent on any road in the grader district. Improvements on Upper Woodchuck Road would exceed the combined pro rata for the both Eight Mile Creek Road and Upper Woodchuck Road. They are talking about spending more money than the pro rata share for road improvements required of them. Since pro rata is spent on a road within the same grader district as the subdivision, it is not much of a variance from the regulations. There will be a greater demand for maintenance on Upper Woodchuck Road. There is currently no scheduled road maintenance on the road until 2012. Jason stated they agree with Planning Staff's findings of fact for variance number two. Jason argued the importance of approving variance number one rather than denying it.

Commissioner Rokosch asked what the road width would be on the lower portion. Jason replied it would be the existing width which is probably 18 feet. They would also chip seal it. This project has been in the works for two and a half years. He stated they are proposing to spend the money to 'get it right the first time and keep the road maintained, which is essential to public welfare'.

Commissioner Rokosch called for any further public comment, hearing none. He closed public comment and opened Board deliberation. He stated they have a written comment from Road Supervisor David Ohnstad.

Commissioner Rokosch stated under variance request number one of the Staff Report, Staff states there is not an undue hardship and compliance is essential to public welfare.

Commissioner Chilcott stated there are two sets of pro rata assessments (one at preliminary plat and one at final plat). Renee replied the new regulations state the applicant may use the preliminary assessment for the final assessment. Commissioner Chilcott asked for clarification if they were reviewing this subdivision under new or old regulations. Renee stated they are reviewing under the new regulations.

Jason stated during the process of revamping, they spoke with David Ohnstad. David stated the pro rata would increase due to the increasing road improvements. Commissioner Chilcott discussed unit costs and pro rata assessment with Jason.

Commissioner Thompson stated his concern is the traffic impact on Upper Woodchuck Road. Jason stated there are 160 developable lots behind the subdivision. This proposal would add approximately 8 trips per day per lot on the road.

David Ohnstad stated to his knowledge there isn't any residential use of Upper Woodchuck Road. The improvements discussed would address the impacts of minor and local access. Brief discussion followed.

Commissioner Grandstaff asked if the only benefit would be to the residents of the subdivision. Commissioner Thompson stated he does not agree. If the road is not chip sealed, it will release particulates into the air. We all utilize roads at different times.

Commissioner Chilcott asked if they accepted the pro rata, would county funds supplement the remaining cost needed to make improvements on Eight Mile Road and the road improvements in 2012? David replied absent recovery contracts, the county would have to make improvements. Commissioner Chilcott stated absent the chance that Eight Mile Creek Road will ever be improved, the county taxpayers would be getting a good deal with the improvements to Upper Woodchuck Road. Board discussion followed.

Jason stated Upper Woodchuck Road is adjacent to Missoula County. This is an opportunity where counties can share road improvements. The record shows Eight Mile Creek road would be looked at for an overlay. The zoning and growth policy are meant to control and dictate development. The county has the ability to require future developer to pave Upper Woodchuck Road to meet standards.

Commissioner Rokosch stated they should consider the fact that if the subdivision includes one more lot, the developers would have been required to improve Upper Woodchuck Road to meet full county standards.

Steve Payton stated he is commenting for the residents who live above the proposed subdivision in Missoula County. There has been a long time agreement between the counties for road maintenance on Upper Woodchuck Road. This summer has been the first summer they have seen improvements on the road in ten years. Commissioner Rokosch asked for documentation on the road maintenance agreement. Steve replied he would provide documentation.

Commissioner Chilcott asked what kind of agreement exists between Missoula and Ravalli Counties. Commissioner Thompson replied there are various road maintenance agreements with neighboring counties but he is not familiar with the one mentioned by Steve.

Commissioner Thompson stated the offer of chip seal will reduce particulate matter. He agrees with the Planning Board the variances should be granted.

Commissioner Grandstaff read a letter from Mr. Payton, noting that in addition to the maintenance that has been performed in the past by the Homeowners Association, Plum Creek Timber has done a considerable amount of maintenance on the Upper Woodchuck Road system in conjunction with their logging operation. Their first thought for considering the denial of the variances would be because the chip seal in time would not hold up to the traffic of the logging trucks. It would be easier to grade or gravel the road than to wonder who would be responsible for the chip seal repair. If Ravalli County were to be responsible for the maintenance of the chip seal road it would shed new light on the

proposal. We would like to see the pro rata used for Upper Woodchuck Road system. Commissioner Grandstaff asked if logging was still there. Jason replied no.

Commissioner Rokosch stated Staff has no knowledge of an existing road maintenance agreement between Ravalli and Missoula counties for Upper Woodchuck Road.

Commissioner Rokosch called for any additional comments for variance number one.

**Commissioner Grandstaff made a motion to deny variance number from one relieving the subdivider from paying the pro rata share of the cost to improve a portion of Eight Mile Creek Road leading to the subdivision. Commissioner Driscoll seconded the motion.**

Commissioner Chilcott recapped the discussion and stated he believes it would be good for the citizens. They could double the money for improvements to the infrastructure. He stated he would vote against the motion. Commissioner Driscoll stated improvements to Eight Mile Creek Road would not happen until 2012. Board discussion followed.

**Commissioner Grandstaff withdrew her motion. Commissioner Driscoll withdrew her second to the motion. Commissioner Grandstaff made a motion to deny variance request number one to allow the subdivider to chip seal a portion of Upper Woodchuck Road in lieu of paying the pro-rata share of the cost to improve Eight Mile Creek Road based on the findings of fact and the conclusions of law in the Planning Staff Report. Commissioner Driscoll seconded the motion.**

Commissioner Rokosch called for any further discussion, hearing none.

Karen stated in the procedural requirements, the applicant is usually allowed to offer mitigation.

Commissioner Rokosch stated they do have mitigation proposals. He asked Jason if he was proposing other mitigation. Jason replied they did read the Planning Staff Report. The concern is hearing that no mitigation was being proposed for Eight Mile Creek Road. He did not know what would be the Board's concern compared to Planning Staff's or Planning Board's lack of concern. After discussion, the concern seems to be there are no physical improvements being made to Eight Mile Creek Road although there is no identified need or safety concern identified by anyone on record. Jason presented alternative mitigation for Upper Woodchuck Road which is to chip seal one mile of Eight Mile Creek Road. Jason stated the value would be \$25,300. The value for the county to do the work would be \$30,800, as estimated by their company. This would be above and beyond the pro rata and would extend the life of the most impacted portion of Eight Mile Creek Road to the subdivision. (See Attached) Commissioner Grandstaff asked if this was the first time they were seeing this mitigation. Jason replied mitigation is determined and discussed with the developer at the time of the hearing. Brief discussion followed.

Commissioner Rokosch stated this mitigation offer should have been made prior to the motion for action. Brief Board discussion followed regarding procedural matters. Commissioner Rokosch stated he is uncomfortable in accepting the mitigation presented without legal counsel. Commissioner Rokosch requested a motion to table the discussion.

**Commissioner Grandstaff made a motion to table the discussion until they seek legal counsel on the procedural question. Commissioner Driscoll seconded the motion. Commissioner Rokosch, Commissioner Grandstaff, and Commissioner Driscoll voted 'aye'. Commissioner Chilcott and Commissioner Thompson voted 'nay'. Motion carried. Commissioner Rokosch requested a brief recess in order to contact legal council.**

Commissioner Rokosch reconvened the meeting after consulting via phone with County Attorney George Corn in Commissioner Grandstaff's office.

Commissioner Rokosch stated section 3-2-6 (a)(vi)(B)(2) allows for sub divider's expressed preference regarding mitigation for the impacts of the subdivision and/or variances. If that indeed needs to occur, it needs to occur prior to the Board of County Commissioners decision. An action and a motion have been made by the Board. However, there may have been some ambiguity in the process. Commissioner Rokosch advised Jason, he felt his actions and the timing with the alternative mitigation were inappropriate. Jason apologized to the Board. Commissioner Rokosch asked if this represents his expressed preference during mitigation for the impacts of this subdivision and/or variances, as Jason did mention he had a couple of other proposals. Commissioner Rokosch advised Jason this is the time for any mitigation to be presented and he wants 'no more games'. Jason offered his apologies. Jason stated at the Planning Board, other mitigation was discussed. They had that written up but when they heard the other concerns by this Commission, it was different than the Planning Staff. He requested Mr. Van Canaghan provide comments regarding procedure.

Bill Van Canaghan stated for the record, Section 3-2-5 deals with the subdivider's preference for mitigation. It states the subdivider is encouraged to submit in writing to the Planning Department the sub divider's comments and responses to the staff report's recommendations and the Planning Board's advice, if available and applicable. There is not a specific legal requirement to do that. The regulation further states the Board shall consult with the subdivider and will give due weight to the subdivider's expressed preference regarding mitigation for the impacts of the subdivision during deliberation. To bring additional mitigation forth today is appropriate. They are prepared to discuss all alternative mitigation at this time. Mr. Rice has worked hard with the subdivider to put together a series of proposals they think will address the issues of undue hardship and also address some solutions to this problem.

Commissioner Rokosch stated the Board has received the sub divider's preference for mitigation, along with the Planning Staff Report, and Planning Board's advice. He considered their preference for mitigation dated September 5<sup>th</sup>. He noted Section 3-2-5 states mitigation must be submitted no later than two working-days prior to the meeting

or hearing at which the Commissioners consider the subdivision application and preliminary plat. Commissioner Rokosch requested Karen stamp all materials received with the date.

Commissioner Chilcott stated before they ask the developer for their preferences, it would be more efficient if the Commissioners were prepared to tell them what they feel needs to be mitigated. The 'shotgun approach' to mitigate what may or may not be the Commissioner's concerns, seems like a dubious plan. Commissioner Chilcott stated the process would be more efficient if the Commissioners were able to articulate their concerns. Commissioner Rokosch responded the Board is currently considering variance request number one, assuming that the mitigation proposed is the preference.

Commissioner Grandstaff asked which one (mitigation) was the preference. Jason replied this is the preference based upon the concern heard today along with previously submitted documents. The other item that has been discussed on the Planning Board was whether they would do a recovery contract model for Eight Mile Creek Road. Dave Ohnstad agreed on the record at that time, a recovery contract model would satisfy his concerns. It didn't however; satisfy the Planning Department's concerns. The recovery contract is something very difficult and the Planning Board chose not to pursue that option. The consultant had drawn it up thinking it may address some concerns. The Planning Department's concern was that no improvements were being made to Eight Mile Creek Road. Jason stated they had heard from Dave Ohnstad that the \$25,000 recovery would have mitigated the concerns of variance number one and came up with similar expensed mitigation for the Board to consider.

Commissioner Rokosch requested Jason to step forward and identify the alternative mitigation they are proposing.

Jason stepped forward and identified the document. He initialed it upon Commissioner Rokosch's request.

**Commissioner Grandstaff made a motion to continue this variance request until September 17<sup>th</sup> at 10:00 a.m. which will allow the Staff has ample time to review this information and make comment. Commissioner Driscoll seconded the motion.** Commissioner Driscoll stated her preference is for the developer to pay the pro-rata share.

Commissioner Rokosch requested any further comment.

Commissioner Chilcott asked if the pro rata was \$148,000 total for both roads. Renee replied yes.

**Commissioner Rokosch, Commissioner Grandstaff and Commissioner Driscoll voted 'aye'. Commissioner Chilcott and Commissioner Thompson voted 'nay'. Motion carried.**

Commissioner Thompson questioned the continuance of variance one or both variance one, two and the actual subdivision. Commissioner Rokosch requested the motion be read back to the Board. Commissioner Rokosch stated the continuance was approved for variance one. Commissioner Rokosch stated they will continue reviewing variance number two.

Commissioner Driscoll stated it is important for the Board to do this right. It is a slow process but they need to be thorough with their decision making process.

Commissioner Chilcott stated for the record, that any procedural discussions with counsel should be done in a public setting to provide equal opportunity for the developer, his agents and the public

Bill Van Canaghan stated for the record, he and his clients respect the integrity of the process. He stated they believe it is important to have open discussion to debate these issues, and they are here to assist the accommodation of that process. He requested a recess in order for his clients to determine where they are, as they are confused about how the regulations are being interpreted. Commissioner Rokosch replied they are at the consideration of variance request number two. Bill again requested a ten minute recess. The Board concurred.

Commissioner Rokosch requested any comment for Variance Request Number Two, hearing none. Commissioner Rokosch closed public comment.

Commissioner Thompson recapped the variance request.

**Commissioner Thompson made a motion to approve variance request number two based on the Planning Staff Report findings of fact and conclusions of law in the Planning Staff Report. Commissioner Chilcott seconded the motion, all voted 'aye'.**

**Commissioner Chilcott made a motion to approve the petition to alter a portion of Upper Woodchuck Road as presented in the viewers report. Commissioner Thompson seconded the motion.**

Commissioner Rokosch requested any comment. Commissioner Grandstaff requested clarification of where the alteration would be. Jason presented the plat map to illustrate to the Board where the alteration would happen for clarification.

Commissioner Rokosch noted he participated in the viewer's report. The subdivision regulations request 10% grade for the road. Jason replied under uniform fire codes the grade requested is 6%. The old subdivision regulations require 6%, which is why they wanted to make sure the Commissioners knew of the transition occurring to the new regulations. As consultants, they explained the need to follow the AASHTO standards, particularly for the winter terrain. The fire district is looking at building a station at the top to watch fires. Commissioner Rokosch replied he does not see anything in the record where they are intending to build a substation.

Commissioner Rokosch requested any further comment, hearing none. Commissioner Rokosch read a letter submitted by George Marshall with recommendations.

Commissioner Thompson questioned the recommendation of dedicating a 30-foot easement on each side the road centerline, as defined by existing records, and consistent with the petitioned alteration for the whole road or the proposed altered area. Brief discussion followed.

The Board contacted George Marshall by phone to request clarification. George replied he had discussed this with David Ohnstad. It was his intent there be a 30 foot wide easement on both sides of the centerline for the entire section of road which begins at the project and continues until the county line. There is an existing easement of some portion of the road.

George stated typically when someone is referring to a county road it is determined to be a public road that the county has taken over both jurisdiction and maintenance. The state statutes at the time defaults the easement of 60 feet. There is ample evidence that 60 feet is the norm. Jason stated the applicants turned in documentation to the attorneys. George replied he has the documentation.

Karen stated Deputy County Attorney Karen Mahar did the research for the road and it was determined to be a county road. George replied that would satisfy his recommendations. Bill stated his understanding was there was quite a bit of research done. The County's Attorney's Office did review this and had an opinion. He has reason to believe there is a letter that would confirm what was stated earlier.

Glenda stated the Resolution (if approved by the Commissioners) can only address the section of road described in the petition, not the entire section of road as George requested.

Terry Nelson stated he would like to point out the centerline of Upper Woodchuck. Within the subdivision, a full 60 foot easement was granted. He stated it is on record in the Clerk & Records Office.

Commissioner Chilcott confirmed there is an existing 60 foot easement on the road? Terry replied yes, there is one existing.

**Commissioner Chilcott amended the motion to include a 60 foot easement. Commissioner Thompson seconded the amendment. Commissioner Rokosch, Commissioner Grandstaff, Commissioner Chilcott, Commissioner Thompson voted 'aye'. Commissioner Driscoll voted 'nay'. Motion carried. (See Resolution No. 2182 which Glenda will prepare.)**



**Commissioner Thompson made a motion to continue the Public Hearing of Saddle Hills Subdivision to coincide with Variance Number One on September 17<sup>th</sup> at 10:00 a.m. Commissioner Chilcott seconded the motion, all voted 'aye'.**

The Board met for the request of the release of funds for a letter of credit on Arrow Hill Ranch Subdivision. Present were Planner Renee Van Hoven and Administrative Assistant Glenda Wiles.

Commissioner Thompson gave a summary of the letter of credit for a partial release noting the infrastructure has been completed by the developer. **Commissioner Thompson made a motion to accept Staff's recommendation to adopt Resolution No. 2181 for the Release of Letter of Credit for Arrow Hill Ranch Subdivision. Commissioner Driscoll seconded the motion, all voted 'aye'.**

**EIGHT MILE CREEK ROAD MITIGATION ALTERNATIVE CHIP SEAL**

for

**SADDLE HILLS**

September 11, 2007

Located on  
Upper Woodchuck Road in  
Sections 3 & 4, T10N, R19W, PMM  
Ravalli County, Montana

Rec'd @  
Public hearing  
9/11/07

**Prepared For:**  
Saddle Hills, LLC  
PO Box 1074  
Florence, MT 59833

**Prepared By:**  
Territorial-Landworks, Inc.  
P.O. Box 3851  
Missoula, MT 59806

**EIGHT MILE CREEK ROAD MITIGATION ALTERNATIVE CHIP SEAL**

It has been determined that the applicant will need to obtain variances for improvements/pro-rata to Upper Woodchuck Road and Eight Mile Creek Road. The applicant has proposed to improve Upper Woodchuck Road in lieu of pro-rata to both Upper Woodchuck Road and Eight Mile Creek Road. In addition to the proposed mitigation to Upper Woodchuck Road as described in the variance requests the applicant is offering to improve a portion of Eight Mile Creek Road.

**The applicant is proposing to chip seal existing asphalt surface for 1 mile of Eight Mile Creek Road, west from the intersection of Upper Woodchuck Road and Eight Mile Creek Road. Chip sealing this portion of road will increase the safety of the road users, extend the life of the road, and decrease the maintenance of this area.**

**Estimated Cost:**

	<u>True</u>	<u>Value*</u>
Mobilization:	\$0.00	\$2,000.00
Chip Seal:	\$17,000.00	\$20,000.00
Traffic Control:	\$6,000.00	\$6,000.00
Incidentals (10%):	<del>\$2,300.00</del>	<del>\$2,800.00</del>
<b>Total</b>	<b>\$25,300.00</b>	<b>\$30,800.00</b>

\* Value is based upon cost if project were completed as a standalone project.

**If acceptable, we offer that the finding of fact from the planning staff would be altered as follows:**

The applicant is proposing to chip seal existing asphalt surface for 1 mile of Eight Mile Creek Road, west from the intersection of Upper Woodchuck Road and Eight Mile Creek Road, in addition to the proposed mitigation to Upper Woodchuck Road as described in the variance requests in lieu of paying pro-rata share on both Upper Woodchuck Road and Eight Mile Creek Road.

**Additionally, the corresponding condition of approval would be altered as follows:**

The developers shall chip seal existing asphalt surface for 1 mile of Eight Mile Creek Road, west from the intersection of Upper Woodchuck Road and Eight Mile Creek Road for an estimated cost of \$25,300.00 - \$30,800.00.

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**SIGN IN SHEET – COMMISSIONERS MEETING**

**PLEASE PRINT YOUR NAME LEGIBLY**

**DATE:** 9/11/07

**MEETING:** Saddle Hills Major Subdivision

George G. Marshall

Douglas MURDEN

ALAN BRADLEY

Dolores Bandow

Roger Linhart

Paul Weese

JASON RICE (TLI)

Paul Forsting (TLI)

BRETT BANDOW

Bill Van Carenagan

Joshua Monahan

Terry Nelson

NIKI SARDOT

Jashin Hume

Steve Payton

Jenna Payton

**Ravalli County Board of County Commissioners**  
**Public Hearing**  
Petition to Realign Upper Woodchuck Road  
Saddle Hills (Saddle Hills, LLC) Major Subdivision and Two Variance Requests

**September 11, 2007 at 9:00 A.M.**

**Commissioners Meeting Room**  
**3<sup>rd</sup> Floor, 215 S. 4<sup>th</sup> St.**  
**Hamilton, MT 59840**

- 1. Call to Order**
- 2. Disclosure of actual, possible, and perceived conflicts of interest**
- 3. Public Hearing for Petition to Realign Upper Woodchuck Road**
  - A) Viewers Report
  - B) Public Comment on the Petition to Realign Upper Woodchuck Road
  - C) Close Public Comment
  - D) BCC Decision to be made during decision on the variances.
- 4. Public Hearing for Saddle Hills Major Subdivision and Two Variance Requests**
  - A) Staff Report
  - B) Public Comment on the Subdivision and Two Variance Requests, starting with the subdivider and followed by other members of the public
  - C) Close Public Comment
  - D) Receipt of Advice from Planning Board – The BCC have received the minutes from the August 15, 2007 Planning Board Meeting and an outline of their recommendation in the Request for Commission Action
  - E) BCC deliberation on the proposal, starting with variances if there are any
    - (i) BCC discussion and questions (to Planning Board, proponents and opponents only as needed)
    - (ii) BCC action
      - (1) Review of the proposal against the decision and documentation requirements in Section 3-2-8 (for variances refer to Section 7-3-5)
      - (2) Consultation with the subdivider as to the subdivider's expressed preference regarding mitigation for the impacts of the subdivision and/or variances

(3) BCC decision (options)

- (a) Postpone decision, but not beyond the statutory 60-day review period without the consent of the subdivider; or
- (b) Approve with rationale; or
- (c) Approve with conditions and rationale; or
- (d) Deny with rationale

**5. Close Public Hearing**